

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CHAD EICHENBERGER, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

ESPN, INC., a Delaware corporation,

Defendant.

NO. 2:14-CV-00463

**DECLARATION OF BRYAN H.  
HECKENLIVELY IN SUPPORT OF  
DEFENDANT'S MOTION TO DISMISS  
PLAINTIFF'S FIRST AMENDED  
COMPLAINT**

I, Bryan H. Heckenlively, declare as follows:

1. I am an attorney in the law firm of Munger, Tolles & Olson LLP, attorneys for Defendant ESPN, Inc. ("ESPN") in this action. I submit this declaration in support of ESPN's concurrently filed Motion to Dismiss Plaintiff's First Amended Complaint. I make this declaration based upon my personal knowledge and, if called as a witness, I could and would testify competently to the facts set forth below.

2. On July 30, 2014, I caused Adobe's privacy policy for "Analytics and on-site personalization services" to be printed from Adobe's website, *available at* <http://www.adobe.com/content/dotcom/en/privacy/analytics.html>. A true and correct copy of

1 this document is attached hereto as Exhibit A. This document is cited in paragraph 28 of  
2 Plaintiff's First Amended Complaint on page 8.

3 3. On July 30, 2014, I printed the Roku Privacy Policy from Roku's website,  
4 *available at* <https://www.roku.com/about/privacy>. A true and correct copy of this document is  
5 attached hereto as Exhibit B. This document is cited in paragraph 25 of Plaintiff's First  
6 Amended Complaint on page 7.

7 4. On July 30, 2014, I caused an interview with Adobe employee Christopher  
8 Comstock to be printed from the website of ad exchanger, *available at*  
9 <http://www.adexchanger.com/data-exchanges/the-cross-device-question-adobe/>. A true and  
10 correct copy of this document is attached hereto as Exhibit C. This document is cited in  
11 paragraphs 26, 27, and 31 of Plaintiff's First Amended Complaint on pages 7 through 9.

12 5. On July 30, 2014, I downloaded from Adobe's website an "Adobe Campaign  
13 White Paper" entitled "Achieving a single marketing view of the customer," *available at*  
14 [http://offers.adobe.com/en/na/marketing/landings/\\_46316\\_the\\_single\\_marketing\\_view\\_of\\_the\\_c](http://offers.adobe.com/en/na/marketing/landings/_46316_the_single_marketing_view_of_the_customer.html)  
15 [ustomer.html](http://offers.adobe.com/en/na/marketing/landings/_46316_the_single_marketing_view_of_the_customer.html). A true and correct copy of this document is attached hereto as Exhibit D. A  
16 diagram from this document is reproduced and discussed in paragraphs 29 and 30 of Plaintiff's  
17 First Amended Complaint on pages 8 and 9.

18 I declare under penalty of perjury under the laws of the United States and the State of  
19 Washington that the foregoing is true and correct.

20 Executed this 31<sup>st</sup> day of July, 2014, in San Francisco, California.

21  
22 s/ Bryan H. Heckenlively

23 Bryan H. Heckenlively  
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**Certificate of Service**

I, Bryan H. Heckenlively, certify under penalty of perjury that on July 31, 2014, I electronically filed this document entitled Declaration of Bryan H. Heckenlively in Support of Defendant's Motion to Dismiss Plaintiff's First Amended Complaint, and Exhibits A-D thereto, using the CM/ECF system which will send notification of such filing to the following persons:

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DATED this 31<sup>st</sup> day of July, 2014, at San Francisco, California.

s/ Bryan H. Heckenlively

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